

**RULES
OF
DEPARTMENT OF REVENUE
FISCAL OPERATIONS DIVISION**

**CHAPTER 560-3-2
SUBSTANTIVE REGULATIONS**

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(1) **Purpose.** The purpose of this regulation is to define terms and explain the requirements for signatures under Title 48.

(2) **Definitions.**

(a) "Department" means the Department of Revenue.

(b) "Electronic Signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record. It also means a digital or electronic method executed or adopted by a party with the intent to be bound by, or to authenticate a record, which is unique to the person using it, is capable of verification, is under the sole control of the person using it, and is linked to data in such a manner that if the data should be altered the digital or electronic signature is invalidated.

(c) "Electronic" means, but is not limited to, electronic data interchange; or use of the Internet, telephone, or other technology specified by the Department and the filing of a return by computer technology.

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(d) "Electronic Returns Originator (ERO)" and "Electronic Returns Transmitter (ERT)" means an entity or individual that is in the practice of and approved by the Internal Revenue Service to complete and electronically transmit Federal and Georgia income tax returns to the Department.

(e) "GTC" means the Georgia Tax Center.

(f) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.

(g) "Person" means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political subdivision, whether public, private, or quasi-public.

(h) "Return" shall mean any tax return, registration application, form, signature form, or information return required to be filed with the Department.

(i) "Return Preparer" means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return imposed under Title 48, or any claim for refund. The preparation of a substantial portion of a return or claim for refund shall be treated as if it were the preparation of such return or claim for refund. A person shall not be considered a return preparer merely because the person does any of the following:

1. Furnishes typing, reproducing, or other mechanical assistance;
2. Prepares a return or claim for refund of the employer, or an officer or employee of the employer, by whom the person is regularly and continuously employed;

3. Prepares as a fiduciary a return or claim for refund for any person; or

4. Prepares a claim for refund for a taxpayer in response to a notice of proposed assessment issued to the taxpayer.

(j) "Signature Form" means Form GA-8453, Form GA-8453 C, Form GA-8453 S, or Form GA-8453 P.

(k) "STI" means the State tax identification number.

(l) "Tax" means tax, interest, penalty, and fees.

(m) "Taxpayer" means any person required by law to file a return or to pay taxes.

(n) "Third Party" means any person who is authorized to file returns on behalf of a taxpayer or is authorized by the taxpayer to access account information, or both.

(3) Signature Provisions for the Valid Filing of all Paper Returns, Electronic Returns, and Signature Forms

(a) Except as provided in this regulation, a taxpayer must sign the return. By signing a return, the taxpayer declares under penalties of perjury that to the best of the taxpayer's knowledge and belief the return and accompanying schedules and statements are true, correct, and complete. Such signature will be presumed to be the valid signature of the person responsible for the filing of the return. Should a taxpayer not sign a return it will be considered not to have been filed. Except as otherwise provided by Title 48, returns must be signed as follows:

1. Individual income tax returns must be signed by the individual.

2. Individual joint income tax returns must be signed by both spouses.

3. For a deceased individual, the surviving spouse, administrator, or executor may sign any return on behalf of the deceased individual.

4. All returns for sole proprietorships must be signed by the sole proprietor.

5. All returns for corporations must be signed by the president, vice president, treasurer, assistant treasurer, chief accounting officer, or any other officer duly authorized to so act. The signature shall be prima facie evidence for all purposes that such person is authorized to sign the return on behalf of the corporation.

6. All returns for partnerships must be signed by any one of the authorized partners. The signature shall be prima facie evidence for all purposes that such person is authorized to sign the return on behalf of the partnership.

7. All returns for limited liability companies shall be signed by any one of the authorized members. The signature shall be prima facie evidence for all purposes that such person is authorized to sign the return on behalf of the limited liability company.

8. All returns for trusts and estates shall be signed by the fiduciary. The signature shall be prima facie evidence for all purposes that such person is the fiduciary and is authorized to sign the return on behalf of the trust or estate.

(b) The taxpayer must also date the return in the space provided when signing a paper return.

(c) When a return has been completed by a return preparer or a return is filed by a third party, the return preparer or third party must sign the return. By signing the return, the return preparer or third party declares under penalties of perjury that to the best of the return preparer's or third party's knowledge and belief the return and accompanying schedules and statements are true, correct, and complete. Such declaration of the return preparer or third party is based on all information of which the return preparer or third party has knowledge. With respect to paper income tax withholding and related paper information returns, and paper sales and use tax returns, the return preparer or third party may sign such returns on behalf of a taxpayer. By this signing, such return preparer or third party certifies that the taxpayer has granted them the authority to perform this action on their behalf.

(d) When a paper return has been completed by a return preparer or a paper return is filed by a third party, the return preparer or third party must also date the return in the space provided.

(e) An electronic signature shall have the same legal effect as a signature on a paper tax return. An electronic signature shall be attributable to a person if the record or signature was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic signature was attributable.

(f) A return signature shall be prima facie evidence for all purposes that the return was actually signed and that the signature is valid.

(g) A signature by use of a mark can serve as a signature on a paper return only when two individuals attach a signed statement which witnesses such signature. Such witnesses shall clearly print their names next to their signatures for purposes of clarification.

(h) A faxed signature shall have the same legal effect as an original signature.

(4) Electronically Filed Income Tax Returns.

(a) The taxpayer's signature on the signature form must be the signature of the taxpayer whose return is filed electronically and such form must be completed and signed prior to the filing of the taxpayer's electronic return.

(b) The return preparer's signature on the signature form must be the signature of the return preparer who prepared the electronically filed return and such form must be completed and signed prior to the filing of the taxpayer's electronic return.

(c) The ERO or ERT must sign the signature form.

(d) The ERO or ERT shall declare that they have reviewed the taxpayer's return and that the entries on the signature form are complete and correct to the best of their knowledge.

(e) The ERO or ERT is required to keep the following items for any Georgia income tax return filed electronically for a period of three years from the date the return is filed:

1. A signed and dated signature form; and
2. Any form, statement, or attachment that cannot be transmitted electronically.

(f) The ERO or ERT must maintain the signed and dated signature forms, in order for them to be immediately available to the Department at any time upon request during such retention period.

(g) In the event the ERO or ERT ceases operations or participation in the program, or has its approval to participate in the program revoked, the ERO or ERT must submit a letter of explanation and deliver to the Department by certified mail or other documented delivery all signature forms within three (3) business days of ceasing operations or participation in the program.

(5) Tax Returns Filed Using the e-File & e-Pay System.

(a) A taxpayer must register with the Department using the State Tax Registration Application (Form CRF-002). Upon completion of processing the CRF-002, the Department will issue an STI to the taxpayer.

(b) A third party must register with the Department using the Bulk Filer Registration Form (Form CRF-BULK) or Form CRF-002. Upon completion of processing such Form, the Department will issue an STI to the third party if an STI has not already been issued on a prior occasion.

(c) Upon receiving an STI, the Department will provide the taxpayer or third party the necessary information to access the e-File & e-Pay System. Once the required information has been provided, the taxpayer or third party must access the system to become the e-File Administrator.

(d) The third party may file returns and make payments on behalf of a taxpayer but may not otherwise access taxpayer information unless the taxpayer assigns a user identification number to the third party. Such action shall authorize the third party to access the taxpayer's confidential information and also constitute an electronic signature of such authorization.

(e) When a return is filed by a taxpayer, such act shall constitute an electronic signature of the return by the taxpayer.

(f) When a return is filed by a third party on behalf of a taxpayer, such act shall constitute an electronic signature of the return by the taxpayer, the return preparer, and such third party. By this electronic filing, such third party filer certifies that the taxpayer has granted them the authority to perform this action on their behalf.

(g) Once such return is filed, a confirmation number will be issued. Such confirmation number will acknowledge the receipt of the return only and will not acknowledge that the return is correct as filed.

(h) An electronic tax return will not be considered filed until the Department issues a confirmation number to acknowledge receipt of the transmission.

(6) Tax Returns Filed Using the Georgia Tax Center (GTC).

(a) A taxpayer must register with the Department using the Tax Registration Application (Form CRF-002 or its electronic equivalent). Such form must be completed and signed prior to creating a user profile.

(b) A third party must register with the Department using the Tax Registration Application (Form CRF-002 or its electronic equivalent). Such form must be completed and signed prior to creating a user profile.

(c) At such time that the GTC allows electronic registration for a taxpayer or third party, the taxpayer or third party shall agree to submit such registration. Such act shall constitute an electronic signature of the registration by the taxpayer or the third party. When a registration is filed by an authorized third party on behalf of a taxpayer, the third party shall agree to submit such registration. Such act shall constitute an electronic signature of the return by the taxpayer and the third party. By this filing, the third

party filer certifies that the taxpayer has granted them the authority to perform this action on their behalf.

(d) The taxpayer will provide selective information to the third party, for purposes of allowing the third party to access the taxpayer's account. The provision of such information shall authorize the third party to access the taxpayer's confidential information.

(e) When a return is filed by a taxpayer, the taxpayer shall enter their password and agree to submit the return. Such acts shall constitute an electronic signature of the return by the taxpayer.

(f) When a return is filed by an authorized third party on behalf of a taxpayer, the third party shall enter their password and agree to submit the return. Such acts shall constitute an electronic signature of the return by the taxpayer, the return preparer, and such third party. This electronic filing by such third party certifies that the taxpayer has granted them authority to perform this action on their behalf.

(g) An electronic return will not be considered filed until all components of an electronic signature are transmitted to the Department and the Department issues a confirmation number to acknowledge receipt of the transmission. This confirmation number will be an acknowledgement of the receipt of the return only and does not signify that the return is correct as filed.

(h) The taxpayer has the authority to revoke the authority of a third party at any time by removing them as an authorized user of the taxpayer's account on GTC. Once authority has been revoked, the third party will no longer be allowed to access the account on behalf of such taxpayer.

(7) **Effective Date.** With respect to income tax returns, the provisions set forth in this regulation will apply to taxable years

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beginning on or after January 1, 2009. For all other returns, the provisions set forth in this regulation shall apply to all returns filed after this regulation's effective date.

Authority: O.C.G.A. §§ 48-2-12, 48-2-32, 48-7-52, 48-7-53, 48-7-103, 48-7-107, 48-8-49, and 48-8-59.